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Subject:	COUNCIL DECISION on the position to be taken on behalf of the European Union on the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: towards the achievement of the 2030 Agenda for Sustainable Development at the 14th United Nations Congress on Crime Prevention and Criminal Justice to be held from 7 to 12 March 2021 in Kyoto, Japan

COUNCIL DECISION (EU) 2021/…

of …

on the position to be taken on behalf of the European Union on the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: towards the achievement of the 2030 Agenda for Sustainable Development at the 14th United Nations Congress on Crime Prevention and Criminal Justice to be held from 7 to 12 March 2021 in Kyoto, Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(1), 83(1) and 84, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The 14th United Nations (UN) Congress on Crime Prevention and Criminal Justice will be held in Kyoto, Japan, from 7 to 12 March 2021 (the 'Congress'). The main output of the Congress will be the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: towards the achievement of the 2030 Agenda for Sustainable Development (the 'Kyoto Declaration'). The Kyoto Declaration is to be adopted at the Congress.

(2) The Kyoto Declaration sets out the framework of the UN's crime prevention and criminal justice policy for the next five years. It refers to the link between development on the one hand and the rule of law and the need for effective anti-corruption efforts on the other hand, to the importance of advancing crime prevention, including evidence-based crime prevention, to advancing criminal justice systems, and to intensifying international cooperation and technical assistance to prevent and address all forms of crime, including terrorism and emerging forms of crime such as those that have an impact on the environment.

(3) The Union has been a leading partner of the United Nations Office on Drugs and Crime (UNODC) and is funding several initiatives to prevent and combat crime, such as the launch of the Counter Terrorism Learning Platform in April 2020. On a broader scale, the operational partnership between the Union and the UNODC has been consolidated throughout the years in the funding of different projects.

(4) The Union has availed itself of its competence, based on Articles 82(1) and 83(1) of the Treaty on the Functioning of the European Union (TFEU), to legislate in these fields in order to better achieve the establishment of an area of freedom, security and justice, through the adoption of Directives 2011/36/EU[1], 2011/93/EU[2], 2013/40/EU[3], 2014/42/EU[4], (EU) 2017/541[5], (EU) 2018/1673[6] and (EU) 2019/713[7] of the European Parliament and of the Council.

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1 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

2 Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1).

3 Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA (OJ L 218, 14.8.2013, p. 8).

4 Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

5 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88, 31.3.2017, p. 6).

6 Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law (OJ L 284, 12.11.2018, p. 22).

7 Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA (OJ L 123, 10.5.2019, p. 18).

(5) Articles 82(1) and 83(1) TFEU therefore constitute the legal basis for further action to be taken by the Union and its Member States so as to follow up on the Congress, respecting the commitment that has been made with the Doha Declaration and which is to be reiterated with the Kyoto Declaration, in line with Resolution 72/192 of the UN General Assembly.

(6) Article 218(9) TFEU constitutes the procedural legal basis for the Decision of the Council on the position of the Union on the Kyoto Declaration. It provides that the Council, on a proposal from the Commission, is to adopt a decision establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects.

(7) The Union and its Member States aim to be leading actors in the international fight against crime. The urgent need to tackle cross-border crimes has become more evident during the COVID-19 pandemic. The COVID-19 pandemic has been exploited by criminals and organised crime groups across the world, showing how coordination and cooperation, both in prevention and justice, are of the utmost importance.

(8) Current challenges in terms of crime prevention and criminal justice pose risks for the internal security of the Union, but their scope extends far beyond the Union. The position to be adopted in Kyoto and the outcome thereof will constitute a unique opportunity for the Union and its Member States to enhance their policies, so as to better collaborate at international level, leading the advancement of the 2030 Agenda for Sustainable Development.

(9) It is appropriate to establish the position to be taken on the Union's behalf in the UN Commission on Crime Prevention and Criminal Justice, the UN Economic and Social Council (ECOSOC) and the UN General Assembly with regard to the Kyoto Declaration, as the Kyoto Declaration will influence the new UNODC Global Programme and will be capable of decisively influencing the content of Union law, namely the proposed Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument.

(10) The Kyoto Declaration will reinforce the existing international legal framework and constitute the basis for further action on the Union level in several areas of crime. It is therefore appropriate to approve the adoption of the Kyoto Declaration at the Congress.

(11) In accordance with Articles 1 and 2 of Protocol No 21 on the position of Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(12) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.

(13) The Union's position is to be expressed by its Member States that participate at the Congress, acting jointly. In accordance with the duty of sincere cooperation, Member States of the Union are to defend that position in subsequent stages of the adoption of the Kyoto Declaration,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf at the 14th United Nations Congress on Crime Prevention and Criminal Justice (the 'Congress') in Kyoto, Japan, from 7 to 12 March 2021 shall be to approve the adoption of the Kyoto Declaration on Advancing Crime Prevention, Criminal Justice and the Rule of Law: towards the achievement of the 2030 Agenda for Sustainable Development (the 'Kyoto Declaration'). The draft Kyoto Declaration is attached to this Decision.

Article 2

The position referred to in Article 1 shall be expressed by the Member States of the Union that participate at the Congress, acting jointly.

Article 3

Minor changes to the Kyoto Declaration may be agreed to by the representatives of the Union without further decision of the Council.

Article 4

This Decision is addressed to the Member States.

Done at …,

For the Council
The President